1. Open and Non-Discriminatory Movement of Oil by Pipeline.
This issue can be differentiated into two separate and distinct issues: **Oil Quality Differences** and **Proprietary Pipeline Operation**.

A. Oil Quality Differences.
Crude Oil is typically differentiated by two principal properties among many others: sulfur content and gravity ("density"). While almost all oil pipelines in the GOM employ a gravity banking system to account for differences of gravity qualities entering and transiting their systems only a few employ a sulfur banking system which would account for differences in sulfur qualities. A quality banking system is an accounting system set up to achieve equitable value for each producer/shipper's specific crude quality by calculating, collecting and remitting monetary adjustments among producer/shipper's caused by the difference in the sulfur and gravity of each such respective delivery into and receipt out of the pipeline. The issue at hand is: Should an oil pipeline deny transportation privileges to crude oil production that differs significantly in sulfur content from that currently being transported? More simplistically, can a pipeline whose common stream oil quality is "sweet" (oil of less than .5% sulfur by weight) deny transportation services to "sour" oil production (oil having .5% and greater sulfur by weight)? Within the production area of the GOM it is not economically feasible to segregate these differing qualities of oil for transportation. Walter and Vision are currently affected on both sides of this issue. Walter has a deepwater block which it has been hopeful of commencing production for over a year and one-half but has been denied transportation privileges by the nearest cost-efficient pipeline as a result of this quality issue. Walter's new production is anticipated to be "sour" and the prospective oil pipeline currently has a "sweet" common stream. In another area of the GOM, Walter delivers and Vision ships a relatively high gravity (above 45° API) "sweet" crude oil into a pipeline that until July 2003, had a "sweet" common stream. In July 2003, this particular pipeline allowed for connection and transportation of new "sour" oil production and as the production volumes from the new source increased the pipeline's common stream quality changed from "sweet" to "sour". At the time the new production entered the pipeline a gravity banking system but not sulfur banking system was implemented, resulting in lower financial values received by Walter than otherwise had this "sour" oil not entered the system. Vision has formally requested the pipeline implement a sulfur banking system, but has been informed verbally by the pipeline that it does not intend to do so. It should be readily apparent there is no standardized procedure nor rule for dealing with this issue and the inconsistency and uncertainty surrounding this issue is resulting in production delays and possible postponement of drilling and workover activities.

Recommendation: We recommend that MMS propose a rule for oil pipelines in the GOM subject to OCSLA that requires all pipelines to accept for movement any crude oil produced therein irrespective of sulfur and gravity differences as long as the pipeline has available capacity and that the rule further require that such pipelines implement sulfur and gravity banking systems. The MMS should assist the oil pipelines by establishing a uniform sulfur and gravity banking system that would be employed by all.

B. Proprietary Pipeline Operation.

A large number of oil pipelines in the GOM are proprietary requiring the producer and/or its shipper/purchaser to sell the oil to the pipeline or its nominee as it enters the pipeline and then repurchase a comparable volume at the terminus of the proprietary pipeline or another location of their choosing. The difference between the price paid to the producer and/or its shipper/purchaser and the price charged them on the subsequent resale theoretically represents the transportation charges and value of oil quality differences. We believe that proprietary pipeline operation results in significant discrimination among the connected producers and their shipper/purchasers by benefiting some to the detriment of others. Charges which purport to represent transportation services are inconsistent and vary considerably for similar transportation services. It is our contention that proprietary pipeline operation restrains trade by requiring producers and/or their shipper/purchasers to sell to the pipeline or its nominee often at non-negotiable rates, terms and conditions thus restricting an open and competitive marketing process for oil production entering and transitting such systems.

Recommendation: We recommend the MMS propose a rule for oil pipelines in the GOM subject to OCSLA that requires all pipelines to operate as common carrier systems with published tariffs for all entry and destination locations with standardized rules and regulations applying to all producers and their shipper/purchaser's. Each shipper/purchaser would be required to provide their proportionate volume of pipeline line-fill and as such would not be required to enter into sell and repurchase agreements with the pipeline or its nominee.

2. Tariffs.

Since the decision in *Shell Oil Co. v. FERC* (D.C. Cir. 1995) FERC has made no effort to review nor question any oil pipeline tariff charges in the GOM unless the specific oil movement crossed state boundary lines, which is an unusual occurrence. It is our belief that there is no federal regulatory agency currently exercising any jurisdiction and oversight over tariffs charged by oil pipelines. While some oil pipelines continue to file FERC tariffs, it is our belief they are filed simply as a matter of record with no commission review. One might say, that at the current time, oil pipelines operating in the GOM can charge whatever tariff they so choose and may charge different rates to different producers and/or their shipper/purchasers for similar or identical transportation services. While a return-on-investment standard has been issued by the MMS for allowable transportation cost deduction for oil royalty valuation concerning non-arms-length transportation, no such standard exists for oil transportation charges to other parties. Recently this year a few pipelines notified producers and their shipper/purchasers of substantial tariff increases, some on the magnitude of 8-10 times previous tariff rates which has resulted in some production being shut-in. There has been no federal agency review or oversight of these significant tariff increases.

Recommendation: We recommend the MMS propose a rule for oil pipeline tariffs that establishes a return on investment framework similar to that established in the recent oil valuation rule (1.3 times BBB bond rate) as the criteria to be utilized in establishing tariffs. We also recommend the rule provide for tariff increases no more frequently than annually and that annual tariff increases may not be greater than the percentage increase in the most recent annual Consumer Price Index. In the event a pipeline believes it is being financially harmed as a result of this rule, it may petition MMS and MMS should have authority to approve a higher rate based upon its review and evaluation of detailed supporting financial statements and reports submitted by the pipeline to the MMS and all affected producers and shippers.

Conclusion: Vision believes that many oil pipelines in the GOM are not operating under the open and non-discriminatory requirements as envisioned and established by OCSLA. With the withdrawal of FERC's jurisdiction and oversight over oil pipelines, tariff rates are increasing at an alarming pace. There are no standardized rules and procedures dealing with oil quality issues and proprietary pipeline operation is restraining open and competitive market activity. The situation is simply out of control. We recognize and appreciate the role and position of the MMS, however, it appears at the current time it is the only federal agency having jurisdiction and oversight over these critical issues. We recommend and encourage the MMS propose rules covering oil pipelines in the GOM as we have specifically set forth in this letter and in our oral presentations. While it would seem that FERC would be the more appropriate federal agency to provide oversight and jurisdiction over oil pipelines, we believe enabling legislation would be required and do not feel it would be forth coming. Thank you for seeking our and other industry participant's comments on these very critical issues directly affecting oil drilling and production activities in the Gulf of Mexico.

Sincerely,

Thomas P. White
President

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